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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,814	03/21/2001	Takashi Yugami	826.1716	1934
21171	7590	11/04/2005	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			ZURITA, JAMES H	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/812,814	YUGAMI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	James H. Zurita	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 August 2005.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,4 and 6-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1, 4, 6-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Prosecution History***

The following chronology is presented to clarify the record.

On 21 March 2001, applicant filed the instant application. Applicant claims priority to application 2000-307563, filed 6 October 2000 in Japan.

On 23 December 2003, the Examiner issued a non-final rejection of claims 1-11 as anticipated by Kaminsky (PB-PUB 2001/0047308).

On 24 May 2004, applicant amended claims 1, 4, 6-11, cancelled claims 2, 3, 5.

On 1 July 2004, the Examiner rejected claims 1, 4, 6-11 as anticipated by Kaminsky, above. The Examiner introduced a rejection under 35 USC 101.

On 1 October 2004, Applicant amended claims 1, 4, 6-11, added claims 12-17.

On 19 October 2004, the Examiner issued a final rejection of claims 1, 4, 6-17.

On 19 January 2005, applicant filed a notice of appeal. No appeal brief was filed.

On 22 February 2005, applicant filed a request for continuing examination.

On 12 April 2005, the Examiner rejected claims 1, 4 and 6-17 as unpatentable over Kaminsky, above.

On 11 August 2005, applicant amended claims 1, 8-12 and 16-17.

The present office action is in response to the amendment of 11 August 2005.

### ***Response to Amendment***

On 11 August 2005, applicant amended claims 1, 8-12 and 16-17.

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Claims 1, 8, 9, 10, 11, 12, 16 and 17 are independent claims. Each has been amended to include the phrase "...the dates include the date after a current date..."

Claims 1, 4 and 6-17 are pending and will be examined.

### **Response to Arguments**

Applicant's arguments filed 11 August 2005 have been fully considered but they are not persuasive.

Applicant argues,

At page 4 of the Office Action, the Examiner admits that Kaminsky fails to disclose "a discount price transition table to a purchaser's terminal via a network," as recited in claim 1. The Examiner asserts that it would be obvious to modify the method of Kaminsky to include a table structure as that of claim 1. However, the Applicants respectfully disagree.

FIG. 3 of Kaminsky discloses a display showing a retail price, a current price and an offer end date and price trend of a product....

In response, the Examiner notes that applicant appears to misread the prior rejection. In fact, the rejection stated,

Kaminsky does not expressly disclose the use of a discount price transition **table** that includes dates and discount prices, wherein each discount price corresponds to a date. Emphasis added.

The Examiner respectfully directs applicant's attention to Fig. 3, which discloses a **screen with a table**. These are presented **over a network** to a purchaser. The screen shows a table that includes the following headings "...Product...Qty...Retail Price..." etc.

Applicant argues that

Further, at page 7 of the Office Action, the Examiner asserts that paragraph [0050] of Kaminsky discloses a user being able to see a real-time display of the quantity of particular products available and be able to assess the relative value of a product through the various price strategies. The user can then make decisions about purchases

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based on how quickly or at what price, an item is selling, for instance, choosing to purchase at current price rather than waiting for better prices under any other price scheme.

...Again, the display *does not* contain any information representing or relating to prices offered to a purchaser for a future time in a manner wherein the price continuously reduces by a percentage, after elapsing over a period of time.

The Examiner notes that applicant appears to correctly quote, without traverse, from page 7 of the prior office action. Applicant's conclusion is erroneous. For applicant's convenience, the Examiner provided a tabular presentation on **pages 4-5** of the prior office action.

Applicant argues that

The Applicants respectfully submit that even if the price information of Kaminsky can be put in table form, as asserted by the Examiner at page 4 of the Office Action, it would not be obvious to modify the method of Kaminsky to include "...[applicant's most recent amendment]..."

The Examiner reasserts that Kaminsky discloses providing information over a network in table form, as shown in Fig. 3. It would have been obvious to present **any other type of data** in table form over a network to a purchaser. Applicant does not contradict this.

Applicant argues that

...That is, in Kaminsky, the user is able to see the price trend of a product and to make decisions about purchases based upon the price trend. For example, if the current price is relatively low and the price trend indicates that the price is going up, then the purchaser may want to go ahead and purchase the product at the current price. On the other hand, if the current price is relatively high, and the price trend indicates that the price is going down, the purchaser may want to wait until the price goes down. However, Kaminsky does not provide the advantage of allowing a purchaser to know what a price will be for a specified product on a specified future date, as in the present invention. Further, in Kaminsky, the purchaser is not able to make a reservation for a later date to purchase the product.

In response, the Examiner notes that the various features and self-laudatory language does not form part of the claim. For example, the claims do not refer to

"...[relatively low] current price...price trend...going up..." Other features, such as "...then the purchaser may want to go ahead and ..." are also absent from the claim and would in addition need an inquiry into the mental state of a purchaser, features that are not in applicant's disclosures.

In addition, in response to applicant's comments concerning features found in Kaminsky and in prior art, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

#### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 1, 4 and 6-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaminsky U.S. PG-PUB 2001/0047308.

***Referring to claim 1***, Kaminsky disclose a method of managing a selling price, comprising:

- Counting a sales quantity (Fig. 3, "Qty");
- Setting a discount price as the selling price, the discount price produced by a discount from an original price, while the sales quantity is less than a predetermined quantity (paragraph 0049 and paragraph 0050);

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- Setting the original price as the selling price at the time the sales quantity becomes equal to or greater than the predetermined quantity (paragraph 0050); • Providing a discount price rule to a purchaser's terminal via a network, said rule indicates dates and discount prices, wherein each discount price corresponds to each date (paragraph 0050);

- Accepting a purchase reservation from said purchaser's terminal via the network specified with .a date among the dates indicated in said rule (paragraph 0052); and
- Setting a purchase reservation time of the purchase reservation when the selling price corresponding to one of the discount prices from the rule equals the desired purchase price (paragraph 0052).

Kaminsky discloses displaying screens over networks, and that the screens may contain tables with various types of data, as in Fig. 3.

Kaminsky **does not** expressly disclose formatting and displaying data in the form of applicant's "...discount price transition table...wherein the dates include the data after a current date [latest amendment]..." that includes dates and discount prices, wherein each discount price corresponds to a date.

As previously noted, Kaminsky discloses a method where the merchant can set rules (the rules are stored via a database as shown in Figure 2,"36') for a current price. For the current price, the merchant can choose a start price for each product in a given lot that is 20 to 40% off of the regular list price. The merchant then also sets the percentage increment by which current price of a product can move up or down. Current

price will drop a certain percentage over a given period of time (i.e., 3% drop every 6 hours) as set by the seller (paragraph 050).

Using the rule of Kaminsky as an example (i.e., 3% drop every 6 hours) and assuming that a product for sale had a starting price of \$100.00. The following information could be extrapolated in table form.

Price	Day	Time
\$100	1	+0 hrs
\$97	1	+6 hrs
\$94	1	+12 hrs
\$91	1	+18 hrs
\$88	1	+24 hrs
\$86	2	+0 hrs
\$83	2	+6 hrs
\$81	2	+12 hrs
\$78	2	+18 hrs
\$74	2	+24 hrs

Applicant's latest amendment includes the language "...the dates include the date after a current date..." In the above table, current date may be shown as day 1, and the date after a current date may be shown as day 2.

The Examiner notes, a discount price transition table that includes dates and discount prices is merely a manipulation of the rule / algorithm as disclosed by Kaminsky. A table can be defined as a list of entries, each entry being identified by a unique key and containing a set of related values.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the method of Kaminsky to have included the table structure as discussed above in order to allow a user to see a real time display of the quantity of particular products available and be able to assess the value of a product through various price strategies (paragraph 0050). Moreover, to have modified the

method of Kaminski to have included a table structure would have been obvious to the skilled artisan because the inclusions of such step would have been an obvious matter of design choice in light of the method already disclosed by Kaminski.

***Referring to claim 4.*** Kaminsky further discloses a method comprising:

- Setting the discount price to a minimum discount price (paragraph 0044, "The business entity can set either a floor, or minimum price for the product they wish to offer..."); and
- Holding the minimum discount price as the selling price after the selling price reaches the minimum discount price, as long as the sales quantity is less than the predetermined quantity (paragraph 0039).

***Referring to claim 6.*** Kaminsky further discloses a method comprising allocating a product to the purchase reservation if the sales quantity is less than the predetermined quantity when the selling price reaches the desired purchase price (paragraph 0049 and paragraph 0050).

Referring to claim 7. Kaminsky further discloses a method comprising canceling the purchase reservation if the sales quantity is equal to or greater than the predetermined quantity when the selling price reaches the desired purchase price (paragraph 0056).

Referring to claim 8. Claim 8 are rejected under the same rationale as set forth above in claims 1-7.

Referring to claim 9. Claim 9 are rejected under the same rationale as set forth above in claims 1-7.

Referring to claim 10. Claim 10 are rejected under the same rationale asset forth above in claims 1-7.

Referring to claim 11. Claim 11 are rejected under the same rationale as set forth above in claims 1-7.

Referring to claims 12-15. Claims 12-15 are rejected under the same rationale as set forth above in claims 1-7.

Referring to claim 16. Claim 16 are rejected under the same rationale as set forth above in claims 1-7.

Referring to claims 17. Claim 17 are rejected under the same rationale as set forth above in claims 1-7.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*JZ*  
**James Zurita**  
**Patent Examiner**  
**Art Unit 3625**  
31 October 2005



**WYNN W. COGGINS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**